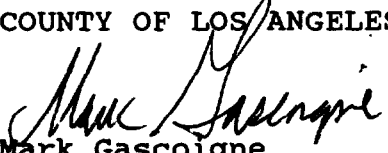


- (5) Find that effective regulation of cellular price levels is necessary in order to protect the public interest in affordable and available cellular telecommunications services;
- (6) Find that special cellular pricing considerations are necessary for government agencies, particularly if no general price level initiatives are pursued; and that it
- (7) Initiate the actions necessary to effect these results.

The County's responses to certain of the specific questions contained in Appendix A of the OII are provided in the Appendix hereto, with cross-references to these Comments. Responses are being provided only with respect to those questions for which the County has an opinion as of this time.

Respectfully submitted,

COUNTY OF LOS ANGELES


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APPENDIX**Responses to Specific Questions**

Following are the County's responses to certain of the specific questions contained in Appendix A of the OII. In general, the County's position is set forth in greater detail in its Comments, which are cross-referenced in the individual responses. Responses are being provided only with respect to those questions for which the County has an opinion as of this time.

1. What is the time frame, to the extent quantifiable, for the deployment of personal communications services (PCS) in California? Please take into account both spectrum allocation and technical challenges.

Response: The County expects to utilize new PCS services for various applications as these become available. The County does not expect PCS to replace or obsolete existing cellular services.

2. What portions of the mobile market will PCS licensees most likely serve in California? What amount of direct competition, to the extent it's quantifiable, will PCS licensees provide to existing mobile telephone service providers?

Response: The County does not believe that PCS will represent a serious competitive alternative to or substitute for existing cellular mobile telephone service. See section VII.C.

3. Nextel, Inc. has announced its plans to introduce mobile telephone services in California in direct competition with existing cellular licensees. What portions of the mobile market will SMR licensees most likely serve? What amount of direct competition, to the extent its quantifiable, will Nextel, Inc. and additional specialized mobile radio (SMR) licensees provide to existing mobile telephone service providers in California? With regard to the cellular industry, please limit comment to competition at the wholesale level.

Response: The County is in the process of evaluating the Nextel offering, but has yet to reach a decision as to its use. The County notes, however, that none of its existing

1,800 mobile telephone sets is compatible with the Nextel service, and that replacement of these units would be required in order for this service to be adopted. Assuming an average price of \$300 per mobile telephone unit, the County would be required to expend some \$540,000 to replace its existing installed base.

4. Comment on this order's characterization of competition in the mobile telephone market. In discussing the cellular industry, please limit comments to competition at the wholesale level.

Response: The County does not believe that there is any competition in the economic sense at the wholesale level. See Section V.

5. Is mobile telephone service a service affected with the public interest? To what extent has it or will it become ubiquitous? If so, what are the obligations that dominant carriers should bear under a comprehensive regulatory framework?

Response: The County considers cellular telephony to be an essential service that plays a vital role in supporting a broad range of government functions. See Section II. The fact that cellular telephones are utilized by a small fraction of the total population does not in any sense diminish the essential, public service and public interest role of this service.

6. How can the proposed dominant carrier regulation of cellular duopolies best preserve opportunities to improve overall market competitiveness and incentives for innovation.

Response: The County believes that by unbundling all essential bottleneck elements of cellular service and by requiring that these be priced on the basis of traditional cost-of-service, rate of return type regulation, maximum effective competition will be stimulated at the retail end of the market. Without significant increases in the frequency spectrum allocated to cellular and in the number of facilities-based cellular carriers operating in a given market, the County does not believe that actual competition at the wholesale level will be possible. See Sections V.A and VI.

7. Does the proposed dominant/non-dominant classification appropriately reflect current market conditions and those that can reasonably be expected over the next few years? Over the next decade?

Response: The County agrees with the dominant/non-dominant classification system proposed in the OII. Essential

bottleneck services offered by dominant carriers should be subject to full price and earnings regulation of the same form that has been traditionally applied for other utilities that furnish essential public services on a monopoly basis. See Section VII.

8. Does the proportion of total available spectrum a service provider holds give a reasonable measure of the power that the provider can exercise in the public mobile telephone market? What other factors should be considered in determining market power and what weight should be given to each?

Response: No, it does not, because all spectrum is not equivalent. For example, propagation characteristics typical of the 800 MHz band make this spectrum better suited for mobile (i.e., automobile-based) use than, for example, the 2 GHz band that will be assigned for most PCS uses. See Sections VII.B and VII.C.

9. Is the potential for implicit or explicit collusive behavior by cellular duopolists sufficient to classify them as dominant carriers?

Response: The cellular duopolists will collectively behave in a monopolistic manner even in the absence of outright collusion. See Section V. Hence, facilities-based cellular carriers should be treated as dominant carriers and their essential bottleneck service elements be subjected to full price and earnings regulation. See Section VI.

10. Does the duopoly structure of the cellular industry ensure that a reasonable amount of competition will occur among cellular providers.

Response: No. See Section V.A.

11. What types of regulation, if any, is most likely to spur the development of competition in the wireless market?

Response: See response to question 6; see Section V.A. and VI.

12. To what extent does the degree of competition currently existing in urban, suburban and rural California markets or mobile services protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory? Indicate the method for determining whether how rates are unjust, unreasonable or discriminatory.

Response: There is not sufficient competition in any of these markets to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonable discriminatory. The fundamental lack of effective, price-constraining competition, and the fact that prices are being charged that incorporate monopoly rents, is amply demonstrated by the enormous premiums that have been and that continue to be paid for cellular licenses in excess of the actual investment in tangible system assets. The presence of any significant premium value over the cost of tangible assets can be used by the Commission as an indicator of the lack of competition and the presence of monopolistic pricing. See Section VII.B.

13. To the extent that conditions in a particular market fail to protect subscribers adequately from unjust and unreasonable mobile service rates, or rates that are unjustly or unreasonably discriminatory, indicate the extent to which mobile service is a replacement for landline telephone exchange service for a substantial portion of the telephone landline exchange service within California.

Response: Cellular service is not a substitute for landline service, it is a complement to landline service.

14. How well has our existing regulatory structure promoted the development of competition and/or reasonable rates?

Response: The Commission's existing regulatory structure for facilities-based cellular carriers has failed to promote the development of competition and/or reasonable rates. See Section II.B.

15. Should service providers of wireless communications as well as resellers who hold no or small amounts of spectrum be classified as non-dominant carriers? IF so, should this classification occur regardless of whether these providers have network facilities? Is it reasonable to streamline entry or price regulation for non-dominant carriers to the extent permissible by law?

Response: As a general matter, resellers and facilities-based carriers with relatively small market shares (of the underlying wholesale market) can be classified as non-dominant. However, if through consolidation, affiliation, joint marketing or other means a PCS licensee expands its market scope and/or share to a point where it is able to exercise market power, the classification could be revisited.

16. Is holding no more than 25% of total available cellular spectrum a reasonable trigger to grant non-dominant status to cellular licensees? Is bandwidth an appropriate standard to measure the degree to which new services are substitutes for cellular? Will such a standard ensure that cellular duopolists will not be able to indiscriminately exercise market power through their control of a bottleneck? What other criteria should the Commission consider?

Response: Both of the facilities-based cellular carriers in each market should be classified as dominant notwithstanding their respective split of the market. If in the future an alternative wireless service or technology becomes a sufficiently close substitute so as to impose pricing discipline upon the cellular carriers, the Commission may revisit the classification question and apply a 25% market share threshold test.

17. Is any firm in which a dominant carrier, i.e., local exchange carrier or holder of more than 25% of mobile spectrum in a geographic market, has any financial interest an affiliate of the dominant carrier for regulatory purposes? Should "new" entrants into the mobile telephone market who are affiliates of dominant carriers be classified as dominant carriers themselves?

Response: Yes to both questions.

18. Is it likely that other new facilities-based entrants into the mobile telephone market holding less than 25% of total available spectrum in a geographic market will not control significant bottlenecks or wield significant market power?

Response: The County believes that this will be the case, based upon present indications. However, through consolidation, affiliation, joint venture or other arrangement that condition could change, and even a "new" carrier could exercise market power in some cases.

19. Are the requirements for registration described in the order sufficient for non-dominant carriers?

Response: Yes.

20. Are current sanctions for non-compliance with consumer safeguards adequate? If not, what changes should be made?

Response: No, they are not. See response to question 6; see Sections V.A. and VI.

22. Is the proposed definition of "mobile telephone service" reasonable for establishing a comprehensive regulatory framework?

Response: Generally. However, not all of the wireless "mobile" technologies are equivalent in terms of functionality or capability, and as such there is not one "mobile services" market that can be embraced within a single universal definition. This definition is adequate as a general matter, but it should not be construed as implying a finding that different mobile services are close or perfect substitutes for one another, or that they are even substitutes at all.

24. Which approach to regulation of cellular licensees described in the order best balances the interests of promoting the long-term competitiveness of the mobile telephone market with constraining the potential or actual exercise of market power while a duopoly structure remains in place?

Response: See Section VI.A.

25. If the Commission wishes to examine a cost-based price cap further, what general features should be included?

Response: The County does not believe that there is sufficient experience with cellular costs and productivity to permit adoption of "price cap" type regulation at the present time, but it could be considered in the future after more data has been gathered on these subjects. See Section VII.A.

26. What is the price elasticity of cellular service? Is it inelastic, if so why?

Response: The County has not undertaken a study of the price elasticity of cellular service. The County would, however, offer several observations with respect to this question. First, price elasticities often increase with price, and thus the price elasticities exhibited at the present excessive price levels for cellular air time are not indicative of the price elasticity that would pertain at price levels set on the basis of the cost of tangible system assets. Second, there are likely to be different price elasticities for different types of cellular uses; for example, many of the applications described in the County's comment involve the public safety and disaster response, the demand for which is likely to be highly inelastic. At the same time, the County is aware of specific and important applications that have been rejected

because of the high prices of cellular service. See Section II.A.

27. Comment on the general approach to spectrum valuation described in the order. What alternative approaches should the Commission consider for the valuation of spectrum.

Response: The "value" of spectrum reflects the capitalized value of future economic rent that can be derived therefrom. Accordingly, no "value" should be imputed for spectrum in setting prices for essential bottleneck service elements. See Section VII.B.

28. Is the need for regulatory oversight in California different from that of other states? Are market conditions different, if so, does that affect the approach to regulation that is appropriate in California?

Response: The County has not surveyed its counterparts in other states, but expects that many of the same types of applications are being supported by cellular. The County has noted the affirmative involvement of cellular carriers in Florida in supporting government and public safety uses of cellular [at 12] and observes that the fact that such cooperation has not been forthcoming in California may suggest a greater need for effective regulation here than elsewhere. California has unique commuting and mobility characteristics that likely engender greater demand for mobile telecommunications than in other parts of the country.

29. How do rates for cellular service in states that actively regulate cellular compare to states that do not? Are there other relevant comparison? If so, what are they? (Please provide comparative data for any comparison that you advocate.)

Response: The County is not aware of any state that has adopted a regulatory model of the type it recommends be applied for essential bottleneck cellular services in California.

30. Should the Commission require that the radio transmission function (access to tower and transmitter/receiver) be available on an unbundled tariffed basis from all landline transmission and switching functions if the Commission does not adopt a cost-based price cap for cellular licensees? If so, what level of unbundling is necessary? How should tariff prices be computed?

Response: See Sections VI.A. and VII.

31. How advisable is it to engage in unbundling if the commission expects the market to be competitive in the future? Are unbundling requirements needed in a competitive market?

Response: The County does not expect the market to become competitive in the foreseeable future; if, as and when it does become competitive to a point where the "dominant" classification of a facilities-based cellular carrier is no longer warranted, the unbundling requirement can then be removed.

32. Is the need to require the unbundling of radio transmission from all landline transmission and switching functions lessened if the Commission adopts a cost-based price cap?

Response: No. Such unbundling is essential if competition is to develop at the retail level.

33. In light of the growing dependence of public agencies on mobile telephone capabilities, should the Commission require mobile telephone service providers to establish special rates for public safety or other public agencies? If so, what criteria should be used to qualify?

Response: Yes. See Section III.

34. Is it reasonable to conclude that there are much weaker benefits from the integration of other competitive services, e.g., long-distance and enhanced services, with dominant radio carrier services? Is it reasonable to conclude that other non-dominant providers of service would be able to offer such integration at less risk to the competitive vitality of those markets?

Response: Yes.

35. If the Commission does not adopt a cost-based price cap for cellular licensees, should it prohibit discounts for the bundling of competitive non-cellular services, e.g., long-distance or enhanced services, with cellular service? Should the Commission take other steps to discourage anticompetitive vertical integration?

Response: Yes. See Section VI.

36. If the Commission does adopt a cost-based price cap, is the need to prohibit such discounting and to discourage such anticompetitive vertical integration lessened?

Response: No. Essential bottleneck elements should be

unbundled and priced on the basis of cost. Bundled discount packages embracing bottleneck and non-bottleneck elements, without full cost imputation of the bottleneck elements, would be discriminatory and anticompetitive.

37. Should the Commission encourage the development of standards for interoperability among different mobile telephone systems so that users may more readily switch among different technologies and carriers? If yes, how could the Commission adopt this goal?

Response: Yes. Such standards should also include consistent and cost-based rules with respect to inter-system roaming, hand-offs, and "follow-me" types of services. See Section VII.C.

38. Should the Commission discourage various forms of horizontal integration such as any common ownership interest in both duopoly licensees by subjecting such carriers to stricter price regulation?

Response: The Commission should not explicitly or implicitly discourage such horizontal integration, but should adopt safeguards that will prevent the provider from leveraging monopoly power in one sector into adjacent competitive sectors.

42. What benefits does Extended Area Service (EAS) service bring to customers and providers?

Response: EAS and seamless (from both a technical and pricing standpoint) inter-system roaming enhances the overall usefulness of cellular service, and should be encouraged wherever possible.

43. What if any harmful effects does EAS service have on the state of competition?

Response: Inasmuch as the CPUC is expected to "open" intraLATA toll services to competition within the next several months, there is no reason why cellular carriers should not be permitted to offer services in competition with LEC intraLATA toll services on whatever basis they choose.

44. To the extent that EAS results in cellular carriers providing service for which they are not authorized, what remedies are available to the Commission?

Response: Cellular carriers should be given that authority consistent with the general "opening" of the LATA to

competition.

45. What are the long term effects of cellular extended area service on cellular rates and competition?

Response: As long as the landline services are fully unbundled from the radio and associated switching and control functions, there should be no adverse consequences for competition from EAS.

46. Under what safeguards or limitations should the Commission allow cellular carriers to set rates in other utilities service areas?

Response: See responses to 44 and 45.

47. What test or monitoring program other than proposed in the Phase II decision is appropriate for measuring whether cellular prices are competitive? And how would the test measure anti-competitive behavior?

Response: See response to 12; see Sections VII.A and VII.B.

48. How would this test or program be administered by the Commission? What type of information would be required to monitor and how difficult would it be to obtain? For example, should CACD collect and monitor data, or should cellular companies supply information to a third party clearinghouse which would compile results for the Commission? How would information from cellular companies be collected by the Commission, and at what intervals, either quarterly, annually, or otherwise?

Response: If unbundling and cost-based pricing of monopoly bottleneck elements is adopted, it will not be necessary to independently measure the overall "competitiveness" of cellular. With respect to the bottleneck elements, the Commission should attempt to monitor market values of California cellular licenses to determine whether the magnitude of the discounted future economic rent has diminished.

49. How would the results of pricing information or any other test be translated into regulatory action? For example, what benchmarks or indicators should be used to trigger either more regulation or less regulation by the Commission?

Response: The Commission needs to develop a means for separating non-rent goodwill from economic rent. Market

values in excess of the book value of tangible assets plus non-rent goodwill intangibles are indicative of a lack of adequate competition. Persistence of such premium values indicates that rates are excessive, and that additional regulatory action is required.

50. Under what conditions, if any, should wireless services be considered either as the equivalent of basic service or as part of basic service?

Response: Cellular services are an extension of the public switched network and should be treated for regulatory purposes as basic service. It is possible that this same treatment may in the future be applied to emerging PCS technologies and services, but additional experimentation is required before the winning technologies can be selected by the marketplace.